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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,184	10/24/2001	Iman Foroutan	MKSTAR.002A	7330
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KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER KRISCIUNAS, LINDA	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,184

Applicant(s)

FOROUTAN, IMAN

Examiner

Linda Krisciunas

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 9-12, 14, 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13, 15, 16 & 19-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date Feb 12, 2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, 13, 15, 16 and 19-23 drawn to a contest for review of works classified in class 705, subclass 11.
 - II. Claims 9-12, 14, 17, and 18 drawn to an expert module which matches the expert with a specific work dependent upon a correlation between the two classified in class 705, subclass 12.

The inventions are distinct, each from the other due to the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as matching an expert with a work by means of a correlation between the two that is not required for invention I, which conducts a contest where works are reviewed and ranked.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

3. During a telephone conversation with Attorney Louis Knobbe on Tuesday November 8, 2005 a provisional election was made with traverse to prosecute the invention of group I claims 1-8, 13, 15, 16 and 19-23. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-12, 14, 17 and 18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, 13, 15-16, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chacker (US 2004/0093235) in view of the IUMA website (April 2000).

As per claim 1, Chacker teaches a computer storage device, a microprocessor, and a content server (paragraph 50), a first contest including first contest data stored in the computer readable storage (paragraph 65, Figure 3A), the first contest data representing first and second sets of works (28: Unsigned Artist Database, which may contain one to an infinite number of works), the contest server responsive to a first set of votes to identify a first selected work from the first set of works, the contest server

responsive to a second set of votes to identify a second selected work from the second set of works (paragraph 71: the power to choose the recording artist, where the number of sets of votes is deemed irrelevant so long as the selection is paired down to a select few) the first and second sets of votes received within a predetermined time (Official notice is taken that both the concept and the advantage to having a time limitation on voting is well known and expected in the art, therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to limit the time allowed for selection in order to provide an efficient means for reaching a final selection). Chacker discloses the claimed invention, but does not explicitly teach a three tiered or multiple round contest. The IUMA website teaches that it is known to have a multiple round contest. IUMA teaches a second contest including second contest data stored in the computer, the second contest data representing a third set of works including the first selected work and the second selected work, the contest server responsive to a third set of votes to identify one of the third set of works (The IUMA website article, paragraph 2: over 300 college bands....the final four bands and (paragraph 1: the National Champion being crowned and receiving \$10,000) This represents a second contest where the selected works from the original 300 bands and the selected work from the 4 bands is included and one third set of work(s) will be selected as the winner of \$10,000.). Both Chacker and the IUMA website are analogous art for the purpose of conducting contests. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the contest system of Chacker with the

multiple round contest system of IUMA to provide a more inclusive contest that could accommodate a large number of participants.

As per claim 2, Chacker teaches an expert review module comprising instructions executable by the microprocessor ((13) Consuming Public are deemed the experts as they are the ones that will ultimately buy the music), expert review data stored on the computer (See Figure 2: the Consuming Public provides input that is captured on the website), the expert review data representing as assessment of each of a fourth set of works, the fourth set of works including at least one work represented by the first contest data (profile (138) are put into the World-Wide Unsigned Artist Pool (28) and compared each to another which may meet or exceed a fourth set of works.).

As per claim 3, Chacker teaches each assessment includes as aspect score (paragraph 49: rankings which are deemed equivalent to score as it performs the identical function in substantially the same manner and produces substantially the same results), the interactive contest system comprises: a filtering module with executable instructions by the microprocessor, the work filter applying a filter algorithm responsive to the aspect scores to identify works represented in said first contest data (paragraph 77: "Statistics databases 136 maintain traffic and site analysis information" The statistics database is filtering the data according to the rankings.).

As per claim 4, Chacker teaches expert data stored on the computer (See Figure 2: the Consuming Public provides input that is captured on the website), the expert data representing expert characteristics of at least one expert (See Figure 2: Consuming Public is deemed the expert), and a sneak peek pool comprising data representing work

characteristics of a fifth set of works provided to at least one expert based on a correspondence between the characteristics of the one sneak peek work and the at least one expert (The sneak peek pool is (22) Unsigned Artists and Artist Information where their profiles are captured in the World-Wide Unsigned Artist Pool (28). See Figure 3B as it relates this pool to the expert or Consuming Public (13) feedback).

As per claim 5, Chacker teaches a database management module which manages data representing information about voters, about contests, and about works, the database management module responsive to administrative commands to retrieve, save or change data representing voter, contest or work information (paragraph 80: "Software used in the system (120) is a combination of proprietary applications, third party database software, and open operating systems that support acquisition of content, management of that content, publication of the web site (25), downloads of music and media files, registration and tracking of users, reporting of information for both internal and external use." The ability to retrieve, save or change data is inherent is a database management system.).

As per claim 6, Chacker discloses the claimed invention, but does not explicitly teach a digital rights management module which is coupled to the contest server to authorize the distribution of content and prevent unauthorized copying. Official notice is taken that both the concept and advantage of protecting the digital information from copying was well known and expected in the art at the time of the invention. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to

protect digital information from copying to provide a means for securing the information for wrongful use.

As per claim 7, Chacker teaches an advertising module coupled to the contest server to present advertiser information to voters (On-Line store (34) provides a means for selling merchandise and paragraph 47: "on-line and off-line advertising").

As per claim 8, Chacker teaches an electronic commerce module coupled to the contest server to provide secure monetary transactions (paragraph 75: "the consumer to purchase the signed artist's music directly through the OnlineRecordBiz.com web site (25)" and paragraph 76: "FIG. 4 is a diagram of a system (120) that depicts an implementation of the method (20) for the online record business. In general, the system uses servers, networks, computer terminals and other conventional systems, subsystems and components that are known in the art which are necessary for Internet communication.").

As per claim 13 and 16, Chacker teaches a contest server (paragraph 76: servers) including at least two contest rounds of at least two contest rooms (See Figure 3B: where each artist profile is posted on a website and is deemed equivalent to a "room" or stage as denoted by the specification, where the iterative process of selecting the best music is conducted), each contest room including at least two content works (See Figure 3B: there are multiple artist profiles posted), the contest server serving the contest to a voter (See Figure 3B: the Consuming Public (13) provides feedback on the artists), the contest server receiving at least one vote from the voter for at least one

content work in at least one content round (See Figure 6: "Rate this band" is deemed equivalent to voting.).

As per claim 15, Chacker teaches a contest comprising at least one round with at least one room with at least two content works (See Figure 3B: where each artist profile is posted on a website and is deemed equivalent to a "room" or stage as denoted by the specification, where the iterative process of selecting the best music is conducted); vote data representing one or more received votes for one or more works in at least one room of at least one contest round (See Figure 6: "Rate this band" is deemed equivalent to voting); and a selection algorithm responsive to the vote data to select at least one work from each room of each round of each contest (See Figure 4: Statistics Database (136) which keeps track of all votes and the ranking order.).

As per claim 19, Chacker teaches producer submission means for content producers to submit content works for expert review (see Figure 3B, where A&R Pre-selecting of Unsigned Artists is equivalent to producers as they function as a first screening process for music producers and forward the artists to the "expert" Consuming Public. The public is considered the expert since they purchase the music.); expert review means for obtaining expert review of submitted content works (see Figure 3B, "A&R Pre-selecting of Unsigned Artists" followed by selection from the Consuming Public "experts".); filter means for filtering expert reviewed content works to select works to be represented in a contest (paragraph 77: "Statistics databases 136 maintain traffic and site analysis information" The statistics database is filtering the data according to the rankings.). Chacker discloses the claimed invention, but does not explicitly teach a

multiple round contest. The IUMA website teaches that it is well known to have a multiple round contest. IUMA teaches contest means for representing contestant works in multi-level contests, for receiving votes on the contestant works and for selecting a winning contestant work (The IUMA website article, paragraph 2: over 300 college bands....the final four bands and (paragraph 1: the National Champion being crowned and receiving \$10,000) This represents a second contest where the selected works from the original 300 bands and the selected work from the 4 bands is included and one third set of work(s) will be selected as the winner of \$10,000.). The IUMA website is an analogous art for the purpose of conducting contests. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the contest system of Chacker with the multiple round contest system of IUMA to provide a more inclusive contest that could accommodate a large number of participants.

As per claim 20, Chacker discloses the claimed invention, but does not explicitly teach multiple contest rounds. The IUMA website teaches that it is well known to have a multiple round contest. IUMA teaches submitting first, second, third and fourth works for representation in a contest; automatically generating representations of first and second contests, the first contest representing the first and second works, and the second contest representing the third and fourth works, the first and second contests substantially of the same duration and substantially coterminous; receiving one or more votes for the first work in the first contest; receiving one or more votes for the third work in the second contest; automatically generating a third contest representing the first work and the third work; receiving one or more votes for the first work in the third

contest; and automatically selecting the first work as a winning work (The IUMA website article, paragraph 2: over 300 college bands....the final four bands and (paragraph 1: the National Champion being crowned and receiving \$10,000) This represents a second contest where the selected works from the original 300 bands and the selected work from the 4 bands is included and one third set of work(s) will be selected as the winner of \$10,000.). The IUMA website is an analogous art for the purpose of conducting contests. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the contest system of Chacker with the multiple round contest system of IUMA to provide a more inclusive contest that could accommodate a large number of participants.

As per claim 21, Chacker teaches selecting the first, second, third and fourth works from a pool of at last five works (Artist Pool (28)) at a time prior to the submitting of the first, second, third and fourth works for representation in a contest, the selecting based upon comparison of ranking information for each work in the pool (paragraph 49: rankings where they are generated from Figure 6: "Rate this band" which is the voting/ranking method.)

As per claim 22, submitting fifth and sixth works for representation in a fourth contest; submitting sixth and seventh works for representation in a fifth contest; and receiving at least one vote for the fifth work after the generating of the third contest and before the selecting of the first work as a winning work (The teaching of having many multiple works and pairing them in a various fashion to have multiple contests is a matter of design choice. The IUMA website already teaches three rounds of contests,

with the ultimate goal to pair down the numerous works to a winner. This is the same end result of the present application, so the idea of expanding on the number of contests is only a matter of design choice as it does not change the end result).

As per claim 23, Chacker teaches providing to one or more users access to a description of the first work (See Figure 3B: artist profile), access to the number of votes received for the first work (statistics database (136) which compiles all the votes for each profile), or access to an offer for the sale of goods or services corresponding to the first work (See Figure 3A: On-line store, where the artist's music and other items can be purchased.).

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents also teach about contest systems: Junkin (US 6,193,610), Chacker (US 6,578,008), Chacker (US 2004/0093249), Chacker (US 2003/0195795), Philyaw (US 6,631,404), Philyaw (US 6,636,892), Philyaw (US 6,791,588), Philyaw (US 2005/0004981), Philyaw (US 2005/0108659), and Kaplan (US 5,963,916).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMK


Nov 17, 2005



TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600